

# *David Turch and Associates*

## **CITY OF RIALTO**

### **FEDERAL REPORT**

**AUGUST 2015**

- U.S. District Judge Ralph Erickson of North Dakota preliminary ruling blocking the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers' (ACE) enforcement of new rules expanding Clean Water Act mandates to smaller waterways, tributaries and wetlands. The temporary injunction covers 13 states: Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota and Wyoming. Judge Erickson found that the petitioning states presented a credible case that they would face "irreparable harm" if the Waters of the United States rule was allowed to take effect on August 28 and that they demonstrated to the satisfaction of the court their claim had a "likelihood of success." Judge Erickson's decision was widely applauded by Members of Congress representing farm states who have criticized the EPA for engaging in reckless federal overreach.

In response to the Court action, the EPA announced that the new rule, which took effect on August 28, would still apply to the 37 states that are not covered by the temporary injunction. According to the EPA, the rule ensures that waters protected under the Clean Water Act are more precisely defined, more predictably determined and easier for businesses and industry to understand. Specifically, the rule defines and protects tributaries that impact the health of downstream waters (rivers, lakes, bays and coastal waters). The rule, moreover, limits protection to ditches that are constructed out of streams or function like streams and can carry pollution downstream -- ditches that are not constructed in streams and that flow only when it rains are not covered. The rule does not protect any new types of waters, regulate most ditches, apply to groundwater, create any new permitting requirements for agriculture, or address land use or private property rights. Nevertheless, twenty-nine states (including the 13 states covered by the injunction) have filed lawsuits against the water rule. Business interests representing energy, farmers, developers are also suing the EPA while Congress is actively pursuing legislative options to overturn the rule.

- Meeting in Rialto with Mayor Deborah Robertson and Councilman Ed Scott regarding a host of City priorities including status of EPA's health assessment report, objection over the adjudication and distribution of the Justice Department's settlement with the Wong property over perchlorate groundwater contamination in the Rialto-Colton Basin; discussion over the City's F-35 Joint Strike Fighter support letter to Representative Norma Torres and potential subcontractor employment opportunities under the fighter jet program; Department of Housing and Urban Development (HUD) housing funding, and Bureau of Reclamation and Economic Development Administration grant opportunities.
- David Turch and Associates updates regarding congressional discussions over the reauthorization of the Federal Aviation Administration bill; congressional activity over surface transportation reauthorization; Justice Department warning to cities regarding homeless policies that may be in

violation of the Eighth Amendment protection clause against cruel and unusual punishment; Federal Aviation Administration alarm over significant increases in the number of near misses involving commercial aircraft and drones; Administration's new military surplus guidelines for the transfer of equipment to local, state and tribal law enforcement entities under the 1033 program; update on temporary court injunction on EPA's enforcement of its rule on the Waters of the US under the Clean Water Act; Senate vote tally in support of the Iran nuclear deal; and machinations over passing a 2016 fiscal year budget increasing the threat of a government shutdown on October 1.

- David Turch & Associates Newsletter
- Continue to monitor Rialto airport closure issue.
- Kevin Bosch ongoing notifications to City staff regarding federal grant notifications for the month.